

PROPOSED FURTHER REVISED RULE

65-407 PUBLIC UTILITIES COMMISSION

Chapter 204: BASIC-SERVICE CALLING AREA

SUMMARY: This Chapter establishes the criteria and the procedures that the Commission and Local Exchange Carriers designated as Eligible Telecommunications Carriers will follow to establish and change basic-service calling areas.

SECTION 1. PURPOSE AND APPLICABILITY

A. Purpose

The purpose of this Chapter is to create a statewide system for establishing basic-service calling areas (BSCAs) and calling options within those BSCAs that permit customers to select calling rate structures suited to their calling patterns.

B. Applicability

This Chapter applies to all local exchange carriers that are subject to the Commission's jurisdiction and that the Commission has designated as "Eligible Telecommunications Carriers."

SECTION 2. DEFINITIONS

A. April 2002 Amendments. "April 2002 amendments" refers to the amendments to Chapter 204 effective in April 2002, pursuant to the rulemaking proceeding in Docket Number 2001-865. [Designated month depends on final effective date of amendments]

B. Basic-Service Calling Area. "Basic-Service Calling Area" (BSCA) is the local or non-interexchange service calling area of the "home exchange" of a customer of a "local exchange carrier," as defined in this section. Within a BSCA, there may be Economy and Premium calling options with flat-rate and per-minute pricing as specified in the definitions of those options. For all options, the BSCA includes all of the exchanges that are included in the calling option with the largest flat-rate calling area.

C. Commission. "Commission" means the Maine Public Utilities Commission.

D. Contiguous Exchange. An exchange is "contiguous" to another exchange if any portions of the exchange boundaries of the two exchanges touch each other. If the boundaries touch each other only in a body of water, the two exchanges shall not be considered contiguous for the purpose of this Chapter unless a bridge or causeway capable of carrying motor vehicle traffic crosses the body of water and connects land portions of the two exchanges.

E. Customer. For the purpose of this chapter, a "Customer" is a person who has an account for basic local exchange telephone service in Maine from a local exchange carrier that is an "Eligible Telecommunications Carrier."

F. Economy Calling Option. The "Economy Calling Option" is a basic-service calling area option that has a flat monthly rate for unlimited calling within the home exchange and all exchanges that were included in the home exchange's economy calling area immediately before the April 2002 amendments, and a per-minute charge for calls to other exchanges within the BSCA. If an exchange is served by more than one central office or wire center and its Premium calling area includes more than 50,000 access lines, the Economy calling area is the home exchange.

G. Eligible Telecommunications Carrier (ETC). An "Eligible telecommunications carrier" is a local exchange carrier designated by the Commission pursuant to 47 U.S.C. § 214(e) as an eligible telecommunications carrier for the purpose of receiving universal service funding pursuant to 47 U.S.C. § 254.

H. Exchange. "Exchange" is a specific geographic area with boundaries established by a Telephone Utility's service area maps on file with the Commission as part of the Utility's Terms and Conditions. An exchange may include one or more wire centers or central offices.

I. Home Exchange. The "Home" exchange is the exchange in which the customer's telephone line is located and from which the customer receives local exchange service. For the purposes of this Chapter, if a customer subscribes to foreign exchange service, the "foreign" exchange shall be considered a "home" exchange for that customer. All customers of a "home" exchange, as defined by this subsection, may choose one of the basic-service calling area options available in that exchange.

J. Initiating Exchange. An "initiating" exchange is the home exchange of customers who submit a request for modification to a BSCA or to a calling option within the BSCA under Section 6 of this rule.

K. Local Exchange Carrier (LEC). For the purpose of this Chapter, "Local exchange carrier or " "LEC," means a telephone utility, as defined by 35-A M.S.R.A. § 102 (19), that provides local exchange service and is designated by the Commission as an "eligible telecommunications carrier." A local exchange carrier provides loop and local switching services, to customers in an exchange, either directly or through resale.

L. Municipal Calling. "Municipal Calling" is provided to all customers of a local exchange carrier and allows those customers to call all other customers located in the municipal civil division in which the calling customer's telephone line is located without incurring interexchange toll charges, regardless of the exchange that serves the telephone lines of those other customers.

M. Premium Option. The "Premium Option" is a calling option within the basic-service calling area for a home exchange that has a flat monthly rate for unlimited calling to the exchanges within the Premium option in effect prior to the April 2002 Amendments. The Premium option includes the Economy basic service calling area plus any other exchanges that are contiguous to the home exchange, and the exchange(s) containing the nearest regional service center, if none is otherwise included in the Economy or Premium options. Exchanges where the Premium and the Economy calling areas are identical are classified as having a Premium calling area.

N. Rate Group. A "rate group" is a rate classification for local exchange service contained in the terms and conditions of a local exchange carrier. A rate group structure typically classifies rates for the home exchange according to the number of lines that may be called within the BSCA of the home exchange.

O. Receiving Exchange. A "receiving" exchange is an exchange included in one of the two calling area options for a home exchange. A "receiving" exchange is also an exchange requested to be included in the Premium basic-service calling option by customers in an initiating exchange submitting a request under Section 6 to modify the BSCA.

P. Residential Customer. A "residential" customer is a customer who has telephone service at a dwelling and the service is used primarily for domestic or social purposes. All other customers are non-residential customers.

Q. School Administrative Unit. "School Administrative Unit" is defined in 20-A M.R.S.A. § 1(26). For the purpose of this Chapter, a School Administrative Unit means School Administrative Districts (SADs), as defined in 20-A M.R.S.A. § 1(25) and Community School Districts, as defined in 20-A M.R.S.A. §§ 1(5) and 1601(1).

R. Service Center. A "Service Center" is a job center or retail center that offers an array of social, cultural, health and financial services and is a town or city designated by the Maine State Planning Office (SPO) as a regional service center in Chapter 220 of its rules, Methodology For Identification of Regional Service Centers.

S. Single Exchange BSCA. A "single exchange BSCA" is a Basic-Service Calling Area that includes only the home exchange.

T. Skipped-Over Exchange. A "Skipped-Over" exchange is an exchange that is not within the BSCA of a home exchange as a result of other requirements of this Chapter and is not contiguous to the home exchange, but which lies between the home exchange and another noncontiguous exchange that is part of the BSCA of the home exchange. For an exchange to be a "skipped-over" exchange, some portion of the

exchange must lie on a straight line that runs from a point in the home exchange to a point in the non-contiguous exchange that is part of the BSCA of the home exchange.

SECTION 3. BASIC-SERVICE CALLING AREA OPTIONS; ADDITION OF OTHER EXCHANGES; PRICING OF OPTIONS

A. Customer Options for Basic-Service Calling Areas.

A customer of a local exchange carrier may choose one of the following options that are available in the customer's home exchange:

1. Premium Option, priced at a flat monthly rate for unlimited calling within the exchanges included in the Premium option,
2. Economy Calling Area Option, priced at a flat monthly rate for unlimited calling within the exchanges included in the Economy option, and at a per-minute rate for calls made to exchanges that are not included in the Economy option but that are included in the Premium option.

B. Unavailability of Options When Options Identical.

If, in a home exchange, both options as defined in Section 2 are identical, the option in that exchange will be classified as Premium.

C. Municipal Calling.

Subscribers to all calling options shall receive municipal calling.

SECTION 4. IMPLEMENTATION OF BSCA OPTIONS

A. Filing of Rate Schedules and Terms and Conditions.

Within 56 days (8 weeks) following the establishment of any new or changed BSCA, or any additional calling option within a BSCA, each LEC shall file any necessary change to its rate schedules and terms and conditions.

B. Customer Notice

Within 56 days (8 weeks) following Commission approval of any changes in rates or terms and conditions filed pursuant to Section 4(A), Local Exchange Carriers shall send a notice to each customer served by a home exchange in which a change to a BSCA or to calling options will take place. The carrier shall provide a copy of the notice to the Commission. The notice will provide the following information:

1. A description of the Economy and Premium options, a list of the exchanges included in each option, and the rates for each option, including the flat-rate for unlimited calling to the exchanges for which the flat rate applies, and the per-minute rate for calls to the exchanges in the Economy option for which per-minute rates apply;
2. A statement that the customer is entitled to receive municipal calling regardless of which option the customer chooses; and, if necessary for that customer, information about the way to obtain municipal calling if interexchange toll charges appear on the customer's bill for calls within the customer's municipality or if the customer is presubscribed to interexchange service other than that provided by or through the local exchange carrier;
3. A statement setting a deadline that is 56 days (8 weeks) from the mailing of the notice and that advises customers that they may select the Economy or the Premium option prior to the deadline and informs customers of the default option if they do not select.

Unless otherwise ordered by the Commission, whenever there is a change in the BSCA options in a home exchange, the default option for customers who have subscribed to an option at the time of change is the option to which a customer is then subscribed. .

C. Directory Notice

The information contained in §§4(B)(1) and (2) will appear in the introductory pages of all LEC telephone directories.

D. Implementation Dates - Basic-Service Calling Area Options. Companies will implement Economy and Premium options within 35 days following the deadline for customers to choose a BSCA option under Section 4(B).

E. Telephone Directories

LECs must distribute annually to each customer, at no charge, a telephone directory or directories that include(s) the "white" alphabetical listings for each exchange in the customer's BSCA.

SECTION 5. RATES FOR BASIC-SERVICE CALLING AREA OPTIONS

A. Rates for Existing Options

Unless otherwise ordered by the Commission, the monthly rate for any options that are unchanged following the April 2002, amendments to this Chapter shall not be changed except for changes in the rate group.

B. Monthly Rates for New or Modified BSCA Options

1. Home Exchanges; Initiating Exchanges

The monthly rates for a new or modified option should attempt to recover the costs of and revenue losses resulting from the provision of new or modified BSCA calling options to the home exchange. LECs should recover any increase in costs and home exchange revenue losses in the following order:

- a. From the additional revenue realized because the unlimited calling area of the option requires a change in the rate group for the flat basic service rate because exchanges are added to their Premium calling area;
- b. From increasing the flat monthly rate up to the new monthly rate for the same option in the largest receiving exchange included in the home exchange's new or modified option;

- c. From increasing the monthly Premium rate of the Local Exchange Carrier's other exchanges to less than or equal to the monthly rate for the same option in the largest exchange that is included in those other exchanges' Premium options; and then
- d. After the first 12 months by filing proposed rates for Commission review and approval according to Section 5(D).

2. Receiving Exchanges

The monthly rates in receiving exchanges for a new or modified option should attempt to recover the costs and revenue losses resulting from the provision of new or revised BSCA calling options in the receiving exchange. LECs should recover any costs and receiving exchange revenue losses in the following order:

- a. From additional revenues realized because the unlimited flat rate calling area of the option requires a

change in the rate group classification for the basic local service rate; and then

- b. After the first 12 months, by filing proposed rates for Commission review and approval under Section 5(D).

C. Per-Minute Rates for BSCA Exchanges Outside the Flat-Rate Calling Area

Calls made from the home exchange to exchanges that are within the BSCA but not included in the flat-rate portion of the economy option shall be priced at five cents per minute for customers who subscribe to the economy option. Once each year, the Commission, after reviewing competitive interexchange market conditions, may adjust the rate.

D. Tracking Account and Filing Requirements for New or Revised Options;
Subsequent Rate Adjustments

1. Rates

LECs may propose to revise flat monthly rates to implement basic-service calling area options, but the proposed rates should not result in any additional net income for the Company.

2. Tracking Account

Each LEC must maintain a tracking account, by exchange, that records the revenue effects of the BSCA options for the first 12 months after any changes to the BSCA or after BSCA options have been implemented or updated.

3. Reporting Requirements; Rate Adjustments

Within 56 days (8 weeks) after the 12-month tracking period, the Company must file a written report with the Commission that shows the revenue effects of the BSCA options for the first 12 months after a change to the BSCA or after a BSCA calling option has been added or changed. If the tracking account has a positive balance, the LEC must file a proposal to return the excess to customers and to lower prospective rates with its report. If the tracking account has a negative balance, the LEC may file proposed rates for Commission review to recover the shortfall that occurred during the 12-month deferral period and for the period following the 12-month deferral period but prior to the effective date of any revised rates, and to adjust prospective rates to avoid a similar revenue shortfall in the future. Following review, the Commission, as provided in 35-A

M.R.S.A. § 1306(1), may approve or disapprove the proposed rates or may substitute other rates that it finds are just and reasonable.

SECTION 6. REQUESTS FOR CHANGES TO BSCAS AND CALLING OPTIONS

A. Requests by Local Exchange Carrier

A LEC may ask the Commission to modify the BSCA for an exchange or any calling option for that exchange, notwithstanding any other provision of this Chapter.

1. The LEC must make the request in writing. The request must explain and justify why the Commission should grant the request, must propose a reasonable alternative to any requirement of the Rule that the LEC has proposed should not apply, and must describe how granting the request would be consistent with the purpose of this Rule. The LEC must send a copy of the request to the Public Advocate.
2. The Commission will determine whether and how to solicit comments from interested persons. The Commission, at its discretion, may hold a hearing. The Commission will consider the LEC's written request, any comments or testimony, or other

evidence, and the standards contained in subsection C, in determining whether to grant, deny, or modify the request.

B. Requests by Customers

Customers may request the Commission to modify the BSCA for an exchange or any calling option for that exchange, notwithstanding any other provision of this Chapter. Customers must first ask the LEC to attempt to resolve their concerns. If the LEC is unable or unwilling to resolve the customers' concerns, the customers may request the Commission to change the BSCA of a home exchange or the calling options available in that exchange as follows:

1. Form of Request. Fifty customers in the same exchange may request a modification to the BSCA for that exchange or to calling options for that BSCA. The customers must make the request in writing, and must include the names, addresses, telephone numbers, and signatures of each customer of the exchange who is making the request. The request must identify the lead customer, who will serve as the principal point of contact for the petitioners. The request should set forth the circumstances justifying the request, including any efforts made by the petitioners to obtain relief from the LEC.

2. Procedure for Requests from Customers in a Single Exchange BSCA.

The Commission will open a proceeding to investigate expanding the basic-service calling area that is the subject of the request and will hold at least one public hearing. Within six (6) months of the filing of the written petition, the Commission will issue an order that either expands the basic-service calling area or states the Commission's reasons for declining to expand the basic service calling area. In making its determination, the Commission will consider the customers' written request, and any comments, testimony, or other evidence, and the standards contained in subsection C.

3. Procedure for Requests from Customers in Other Exchanges.

For requests from customers from an exchange that is not a single exchange BSCA, the Commission will determine whether and how to solicit comments from interested persons. The Commission, at its discretion, may hold a hearing. The Commission will consider the customers' written request, any comments, testimony or other

evidence, and the standards contained in subsection C, in determining whether to grant, deny, or modify the request.

C. Standards Applicable to Requests for Modification

1. Calling Volumes.

The Commission may require the affected LEC(s) to conduct a study of residential customer calling volumes to any exchange that the LEC or customers have requested to be included in a BSCA option. If, in a representative month, residential customers in the home exchange make an average of three calls a month, and 40% of those customers make two or more calls a month to the requested exchange, the Commission shall grant the request for the change in the BSCA or a calling option unless it finds good cause to deny the request.

2. Change in Service Center.

The Commission may change the service center that is included in the BSCA, or may add a service center, if the Maine State Planning Office adds, removes, or changes the classification of service centers.

3. Other Considerations.

The Commission shall apply the following standards to requests submitted under this Section. The Commission may grant a request for the expansion of the BSCA or for the addition of exchanges on a flat-rate basis to a calling option within a BSCA if it determines that a sufficient community of interest exists between the community or communities located in the customers' home exchange and the community or communities located in the exchanges that the customers propose to add to the basic-service calling area, and if the Commission determines that the benefits are not outweighed by other factors. In determining whether a sufficient community of interest exists, the Commission will consider both social and economic factors including, but not limited to, the extent of the relationship between the two communities, employment patterns, the location of medical service providers, the location of schools, the municipalities and other areas that are included in school administrative units, the percentage of people from the exchange requesting the modification, the seasonality of calling patterns, the level of community sentiment, whether the exchange is a "skipped-over" exchange, and the level of disparity between customers making a large number of calls

to the proposed community and customers making no calls to that community. Other factors the Commission may consider in deciding whether to grant a customer request include, but are not limited to, the availability of optional toll calling plans and the number of subscribers to those plans, the number of lines currently served, the cost, revenue and rate impacts of expanding the calling area, and the availability of alternatives to traditional telephone services.

SECTION 7. WAIVERS

The Commission, on its own motion or on the request of any person, may waive any provision of this rule that is not addressed by the provisions of Section 6.

STATUTORY AUTHORITY: 35-A M.R.S.A. §§ 104, 111, 7303-A

EFFECTIVE DATE:

The Attorney General approved the form and legality of this Rule on June 20, 1994. It was filed with the Secretary of State on June 20, 1994 and is effective on June 25 1994.

EFFECTIVE DATE (ELECTRONIC CONVERSION):

May 4, 1996

AMENDED:

The Attorney General approved the form and legality of this Rule on October 9, 2001. It was filed with the Secretary of State on October 9, 2001 and is effective on October 14, 2001.

AMENDED:

The Attorney General approved the form and legality of this Rule on -----
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